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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/269,830	04/01/1999	ALFRED SCHEERHORN	2345/62	1687
26646	7590	05/20/2005	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			CALLAHAN, PAUL E	
			ART UNIT	PAPER NUMBER
			2137	
DATE MAILED: 05/20/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/269,830

Applicant(s)

SCHEERHORN ET AL.

Examiner

Paul Callahan

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Claims 11-30 are pending in this application and have been examined.

Response to Arguments

2. Applicant's arguments filed 2-7-2005 have been fully considered but they are not persuasive.

The Applicant argues in traverse of the rejection of claim 11 under 35 USC 102(b) as being anticipated by Atalla '710 by asserting that Atalla does not teach the feature of calculating an authentication token as a function of the data "*in a communications phase*" to authenticate both the signals and a transmission sequence of the signals. The Examiner counters by noting that such is taught by Atalla in the abstract where Atalla teaches calculation of an authentication token where he states: "*The method and means...operates on the message, and a sequence number that is unique to the transaction message to form a message authentication code in combination with the user's personal identification number...*" The transaction message taught by Atalla does fall within a reasonably broad interpretation of "*data in a communications phase*" as this terminology would be understood by a person of ordinary skill in the art at the time of the invention. The step at which Atalla teaches this does represent data "*in a communications phase*." Atalla teaches token creation at fig. 1 items 13, 15, 17, 19, 21 where creation of a message authentication code encrypted

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with a session key is illustrated, and additionally at col. 3 line 60 through col. 4 line 10. Atalla teaches comparison of a MAC and a calculated MAC for authentication purposes in, for example, the abstract.

The applicant argues in traverse of the taking of Official Notice in the rejection of claims under 35 USC 103(a), and asks for a showing of art in support of the taking of Official Notice. The features for which Official Notice were taken in the previous Office Action were discussed in the response to arguments section of that Office Action. Showings of prior art were made to the applicant in support of each taking of Official Notice. The applicant appears to be asking for a second showing of prior art in support of the taking of Official Notice in the previous Office Action. Such does not represent a proper traverse of the showing of prior art made by the Examiner in the previous Office Action. Consequently the Examiner does not intend to repeat those showings for a second time, but instead hereby incorporate those showings in their entirety herein by reference to the previous Office Action in the case.

Claim Rejections - 35 USC § 102, 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. The rejections of the claims will not be repeated herein but instead are hereby incorporated in their entirety by reference to the previous Office Action in the case. The

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claims are rejected as before with the following addition: Claims 11, 24, and 30 have been amended to incorporate the added limitation of: "The authentication token calculated by the receiver completeable before actual transmission of the signals".

Such a feature is taught by Atalla (abstract, fig. 1, col. 3 line 60 through col. 4 line 10).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following US Patent Document teaches features pertinent to the Applicant's invention:

Lennon et al. 4,193,131

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul E. Callahan whose telephone number is (571) 272-3869. The examiner can normally be reached on M-F from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Caldwell, can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is: (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

5-14-05

Paul Callahan

Matthew B. Smithers
MATTHEW SMITHERS
PRIMARY EXAMINER
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